

REMARKS

Of the 16 previously presented claims (1-15 and 25), claims 1, 3-4, and 25 are amended herewith. Claims 7 and 8 have been cancelled. With this response, claims 1-6, 9-15 and 25 are now pending.

Support for the amendments to the claims can be found within the specification as originally filed. Specifically, claims 1 and 25 have been amended to more clearly differentiate the product from the grafted copolymer, as suggested by the Examiner. Support for the amendments to claims 1 and 25 can be found in the specification on page 3, paragraph 2, lines 7-8. Claims 3 and 4 have been amended to more clearly shown what is meant by the abbreviations “VLD” and “MFI”, respectively. These abbreviations are well known in the art. Finally, claim 25 has also been amended to correct a stylistic/grammatical error.

Applicant authorizes the Commissioner to deduct any fees relating to this document required under 37 C.F.R. §§ 1.16 to 1.21 from Womble Carlyle Sandridge & Rice, PLLC Deposit Account No. 09-0528, referencing matter number 41461.0010.0.

I. Rejection under 35 U.S.C. § 103

A. Rejection of Claims 1-13 and 25.

Claims 1-13 and 25 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,362,278 to Pfaendner, *et al.* (hereinafter “the ‘278 patent”) in view of U.S. Patent No. 6,224,804 to Schwonke, *et al.* (hereinafter “the ‘804 patent”). Specifically, the Examiner states that the ‘278 patent shows carpet flooring comprising at least one grafted copolymer and polyolefins, including ULDPE (Ultra-Low Density PE), and discloses grafted copolymers including maleic anhydride grafted to high density polyethylene, combined

with ULDPE. Further, the Examiner cites the '804 patent as providing the claimed density which, when combined with the '278 patent, would render Applicants' pending claims obvious.

According to MPEP § 706.02(j), for a claim to be obvious, there must be a) a suggestion or motivation to combine reference teachings, b) a reasonable expectation of success, and c) the references must teach all of the claim limitations, *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

The '278 patent discloses combining polyolefins with the reaction product of a *compatibilizer* such as MAH-g-HDPE with a *stabilizer* compound selected from group consisting of sterically hindered phenols, sterically hindered amines, lactones, sulfide, phosphites, benzotriazoles, benzophenones and 2-(2-hydroxyphenyl)-1,3,5-triazines, which compounds contain at least one functional reactive group (column 2, lines 20-29; column 15, line 65-column 20, line 40). Specifically, the '278 discloses a process for stabilizing and simultaneously "compatibilizing" plastic compositions of at least two polymers by reacting "A" (a compatibilizer) + "B" (a stabilizer) to give "C" (a compatibilizer/stabilizer), and then mixing "C" with selected polyolefins (see, for example, claim 1). The PTO misinterprets the '278 patent as disclosing mixing "A" (a compatibilizer) with selected polyolefins. Nowhere does the '278 patent teach or suggest mixing compatibilizers such as MAH-g-HDPE with a polyolefin such as VLD-PE.

The '804 patent describes a method for manufacturing a floor covering having low unpleasant and/or health damaging emissions and which is resistant to discoloration over time. Such a floor covering is described to contain at least one elastomer based on a polyolefin with a density less than 0.918 g/cm^3 as a polymeric binder, such as polyethylene with a very low density (column 1, lines 57-61). No comment or suggestion is made of preparing a floor

covering comprising an elastomer and at least one graft copolymer. In fact, the '804 patent is silent on the use of graft copolymers in elastomeric floor coverings.

Applicant's present invention is directed to floor coverings comprising at least one elastomer as polymeric binder based on at least one polyolefin and at least one graft copolymer. Neither the '278 patent or the '804 patent, alone or in combination, suggest a floor covering comprising an elastomer and at least one graft copolymer which is maleic acid anhydride grafted high density (HD) polyethylene, as described in the currently pending claims. Therefore, the Examiner's rejection is believed to be traversed in view of Applicants' present claims, as amended.

Neither reference suggests combining the teachings. Furthermore, the two references do not teach all of the claim limitations for pending claims 1-13 and 25, as amended herein. Accordingly, Applicant requests that the rejections of claims 1-13 and 25 under 35 U.S.C. § 103 be withdrawn.

B. Rejection of Claims 14-15.

Claims 14-15 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over "the '278 patent" in view of "the '804 patent". According to the Examiner, the '278 patent shows a carpet flooring comprising at least one grafted copolymer and polyolefins comprising ULDPE (VLD PE and LLD PE), and further shows that the grafted copolymer is a grafted copolymer comprising maleic anhydride grafted to HD polyethylene. The '804 patent shows an elastomer floor covering comprising pigments, quartz powder, kaoline, and talc, as well as variable color design in a homogenous flooring construction. Consequently, the Examiner states that it would have been obvious to one of skill in the art to make the elastomer floor covering of the '278 patent with the pigments and mineral intergrowth fillers of the '804, as it was known

that such a mixture provides decorative color and an effective filler for the flooring so as to provide for a consistent composition for the flooring.

The '278 patent and the '804 patent have been described above. In light of the arguments above for Independent claim 1, upon which claims 14 and 15 ultimately depend, Applicant's believe this rejection to be moot in light of the currently amended claims.

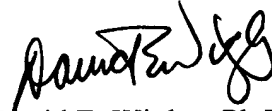
Consequently, Applicant respectfully requests that the rejection of claims 14-15 under 35 U.S.C. 103(a) be withdrawn.

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In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding objections and rejections are respectfully requested. All amendments are made in a good faith effort to advance the prosecution on the merits. Applicant reserves the right to subsequently take up prosecution of the claims originally filed in this application in continuation, continuation-in-part, and/or divisional applications.

The Examiner is encouraged to call the undersigned should any further action be required for allowance.

Respectfully submitted,



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